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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 3004 of 2006

Date of decision: 20.8.2007

Vinod Kumar and others **...Appellants**

Versus

Sher Singh **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. R.A.Sheoran, Advocate for the appellants.

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RAJESH BINDAL, J.

The defendants are in appeal against the concurrent findings of fact recorded by both the Courts below whereby suit for declaration filed by respondent challenging the judgment and decree dated November 27, 1993 was decreed.

Both the Courts below found that the decree obtained by the appellants against the defendant was in suspicious circumstances and accordingly was held to be illegal, void abinitio and not binding upon the respondent. In the impugned decree, the suit was filed by the appellants against the respondent on October 27, 1993 in which notice was issued for November 27, 1993. On the same day written statement was filed and suit was decreed without any statement of the defendant therein (present respondent). It is further corroborated by the fact that even process fee was also not filed in that suit to summon the defendant therein (present respondent). Still further even the counsel appearing for the defendant in the earlier suit (present respondent) stated that he did not know the respondent personally who merely filed the Vakalatnama and written statement on his behalf. All the circumstances clearly point a finger towards the decree being obtained under suspicious circumstances.

Accordingly, concurring with the findings recorded by both

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the Courts below, I do not find any merit in the present appeal and the same is dismissed.

August 20, 2007 **(Rajesh Bindal)**
Pka **Judge**